

Exhibit A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
In Re: Chapter 11
Case No.
01-01139 JKF
W.R. Grace & Co., et al.,
(Jointly
Debtors. Administered)

-----X
- - -
May 6, 2009

- - -
DEPOSITION of JEFFREY POSNER, held
at the offices of Kirkland & Ellis, 655
Fifteenth Street, N.W., Washington, DC,
commencing at 9:08 A.M., on the above
date, before Lisa Lynch, a Registered
Merit Reporter, New Jersey Certified Court
Reporter, License No. XI00825, and
Certified Realtime Reporter

- - -
MAGNA LEGAL SERVICES, LLP
7 Penn Center, 8th Floor
1635 Market Street
Philadelphia, PA 19103
1.866.MAGNA.21

1 A P P E A R A N C E S:

2

DRINKER BIDDLE & REATH, LLP

3 BY: MICHAEL F. BROWN, ESQUIRE

One Logan Square

4 18th and Cherry Streets

Philadelphia, Pennsylvania 19103-6996

5 (brownmf@dbr.com)

Representing OneBeacon America Insurance

6 Company, Seaton Insurance Company,

Government Employees Insurance Company,

7 Columbia Insurance Company f/k/a Republic
Insurance Company

8

9 ANDERSON KILL & OLICK, PC

BY: ROBERT M. HORKOVICH, ESQUIRE

10 1251 Avenue of the Americas

New York, New York 10020

11 212.278.1322

(rhorkovich@andersonkill.com)

12 Representing Grace, Official Committee of
Asbestos Personal Injury Claimants ("ACC")

13

14 W.R. GRACE & CO.

BY: RICHARD C. FINKE, ESQUIRE*

15 ASSISTANT GENERAL COUNSEL

(*VIA TELECONFERENCE)

16 5400 Broken Sound Boulevard, NW
Suite 300

17 Boca Raton, Florida 33487

561.362.1533

18 Representing W.R. Grace & Co.

19

KIRKLAND & ELLIS, LP

20 BY: LISA G. ESAYIAN, ESQUIRE

300 North LaSalle Street

21 Chicago, Illinois 60654

312.862.2226

22 (lisa.esayian@kirkland.com)

Representing the Debtors

23

24

1 A P P E A R A N C E S: (continued)
2 SIMPSON THACHER & BARTLETT, LLP
BY: MARY BETH FORSHAW, ESQUIRE
3 425 Lexington Avenue
New York, New York 10017-3954
4 212.455.2846
(mbforshaw@stblaw.com)
5 Representing Travelers Casualty and Surety
Company
6
7 VORYS, SATER, SEYMOUR AND PEASE, LLP
BY: WILLIAM J. POHLMAN, ESQUIRE
8 52 East Gay Street
Columbus, Ohio 43215
9 614.464.8349
(wjphlman@vorys.com)
10 Representing The Scotts Company, LLC
11
COHN WHITESELL & GOLDBERG, LLP
12 BY: DANIEL C. COHN, ESQUIRE
101 Arch Street
13 Boston, Massachusetts 02110
617.951.2505
14 (cohn@cwgl1.com)
Representing the Libby Claimants
15
16 LEWIS, SLOVAK & KOVACICH, PC
BY: MARK M. KOVACICH, ESQUIRE
17 P.O. Box 2325
723 Third Avenue
18 Great Falls, Montana 59403
406.761.5595
19 mark@lsklaw.net
Representing the Libby Claimants
20
21 SPEIGHTS & RUNYAN
BY: DANIEL H. SPEIGHTS, ESQUIRE*
22 (*VIA TELECONFERENCE)
200 Jackson Avenue East
23 P.O. Box 685
Hampton, South Carolina 29924
24 803.943.4444

1 Representing Anderson Memorial Hospital
2 A P P E A R A N C E S: (continued)

3

MENDES & MOUNT, LLP

4 BY: CAROLINA ACEVEDO, ESQUIRE

750 Seventh Avenue

5 New York, New York 10019

212.261.8262

6 (carolina.acevedo@mendes.com)

Representing AXA Belgium as Successor to

7 Royale Belge SSA

8

MENDES & MOUNT, LLP

9 BY: ALEXANDER MUELLER, ESQUIRE

750 Seventh Avenue

10 New York, New York 10019

212.261.8296

11 (alexander.mueller@mendes.com)

Representing London Market Companies

12

13 FORD MARRIN ESPOSITO & WITNEYER & GLESER

BY: ELIZABETH M. DeCRISTOFARO, ESQUIRE

14 Wall Street Plaza

New York, New York 10005-1875

15 212.269.4900

Representing Continental Casualty Company

16 and Continental Insurance Company

17

BILZIN SUMBERG BAENA PRICE & AXELROD, LLP

18 BY: MATTHEW I. KRAMER, ESQUIRE*

(*VIA TELECONFERENCE)

19 200 South Biscayne Boulevard

Suite 2500

20 Miami, Florida 33131-5340

305.450.7246

21 (mkramer@bilzin.com)

Representing Property Damage Committee

22

23

24

1 A P P E A R A N C E S: (continued)

2

STROOCK & STROOCK & LAVAN, LLP

3 BY: ARLENE G. KRIEGER, ESQUIRE*

(*VIA TELECONFERENCE)

4 180 Maiden Lane

New York, New York 10038-4982

5 212.806.5400

(akrieger@stroock.com)

6 Representing Official Committee of
Unsecured Creditors

7

8 CROWELL & MORING, LLP

BY: PATRICIA CONNALLY, ESQUIRE

9 1001 Pennsylvania Avenue, N.W.

Washington, DC 20004-2595

10 202.624.2913

(pconnally@crowell.com)

11 Representing Fireman's Fund Insurance
(Surety Bond)

12

13 STEVENS & LEE, P.C.

BY: JOHN D. DEMMY, ESQUIRE*

14 (*VIA TELECONFERENCE)

1105 North Market Street, 7th Floor

15 Wilmington, Delaware 19801

302.654.5180

16 (jdd@stevenslee.com)

Representing Fireman's Fund Insurance

17

18 LAW OFFICES OF ALAN B. RICH

BY: ALAN B. RICH, ESQUIRE

19 Elm Place, Suite 4620

1401 Elm Street

20 Dallas, Texas 75202

214.744.5100

21 (arich@alanrichlaw.com)

Representing Property Damage PCR

22

23

24

1 A P P E A R A N C E S: (continued)

2

CONNOLLY BOVE LODGE & HUTZ, LLP

3 BY: JEFFREY C. WISLER, ESQUIRE

The Nemours Building

4 1007 North Orange Street

P.O. Box 2207

5 Wilmington, Delaware 19899

302.888.6528

6 (jwisler@cblh.com)

Representing Maryland Casualty

7

8 ECKERT SEAMANS CHERIN & MELLOTT, LLC

BY: EDWARD J. LONGOSZ, II, ESQUIRE

9 1747 Pennsylvania Avenue, N.W.

12th Floor

10 Washington, DC 20006

202.659.6619

11 (elongosz@eckertseamans.com)

Representing Maryland Casualty and Zurich

12

13 WILEY REIN, LLP

BY: KARALEE C. MORELL, ESQUIRE

14 1776 K Street NW

Washington, DC 20006

15 202.719.7520

(kmorell@wileyrein.com)

16 Representing Maryland Casualty and Zurich

17

COZEN O'CONNOR

18 BY: ILAN ROSENBERG, ESQUIRE*

(*VIA TELECONFERENCE)

19 1900 Market Street

Philadelphia, Pennsylvania 19103-3508

20 215.665.4621

(irosenberg@cozen.com)

21 Representing Federal Insurance Company

22

23

24

1 A P P E A R A N C E S: (continued)

2

3 ORRICK HERRINGTON & SUTCLIFFE, LLP

BY: JONATHAN P. GUY, ESQUIRE

4 PERI N. MAHALEY, ESQUIRE

Columbia Center

5 1152 15th Street, N.W.

Washington, DC 20005-1706

6 202.339.8516

(jguy@orrick.com)

7 (pmahaley@orrick.com)

Representing PI Future Claimants'

8 Representative

9

CUYLER BURK, P.C.

10 BY: ANDREW CRAIG, ESQUIRE*

(*VIA TELECONFERENCE)

11 4 Century Drive

Parsippany, New Jersey 07054

12 973.734.3200

(acraig@cuyler.com)

13 Representing Allstate Insurance Company

14

WILSON ELSEER MOSKOWITZ

15 EDELMAN & DICKER, LLP

BY: CARL J. PERNICONE, ESQUIRE

16 150 East 42nd Street

New York, New York 10017-5639

17 212.915.5656

(carl.pernicone@wilsonelser.com)

18 Representing Arrowood Indemnity Company

19

O'MELVENY & MEYERS LLP

20 BY: TANCRED SCHIAVONI, ESQUIRE

7 Times Square

21 New York, New York 10036

212.326.2267

22 (tschiavoni@omm.com)

Representing Arrowood Indemnity Company

23

24

1 A P P E A R A N C E S: (continued)

2

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC

3 BY: KEVIN J. MANGAN, ESQUIRE*

(*VIA TELECONFERENCE)

4 222 Delaware Avenue

Suite 1501

5 Wilmington, Delaware 19801

302.252.4361

6 (kmangan@wcsr.com)

Representing State of Montana

7

8 PEPPER HAMILTON, LLP

BY: LINDA J. CASEY, ESQUIRE*

9 (*VIA TELECONFERENCE)

3000 Two Logan Square

10 Philadelphia, Pennsylvania 19103

215.981.4000

11 (caseyl@pepperlaw.com)

Representing BNSF Railway Company

12

13

ALSO PRESENT:

14

ALLEN SCHWARTZ, O'Melveny & Meyers LLP

15

16

17

18

19

20

21

22

23

24

INDEX
EXAMINATION

1		
2		
	Witness Name	Page
3	JEFFREY POSNER	
4	BY MS. FORSHAW	14
5	BY MR. KOVACICH	108
6	BY MR. MUELLER	229
7	BY MS. CASEY	236
8	BY MR. LONGOZ	256
9	BY MR. BROWN	269
10	BY MS. DeCRISTOFARO	294, 338
11	BY MR. SCHIAVONI	308, 334
12	BY MR. POHLMAN	314
13	BY MR. SPEIGHTS	339
14	EXHIBITS	
15	EXHIBIT	ID
16	Exhibit 1	14
	Notice of Deposition of Jeffery	
17	Posner	
18	Exhibit 2	14
	Curriculum vitae of Jeffery M.	
19	Posner	
20	Exhibit 3	14
	Affidavit Under 11 USC 327(e)	
21		
	Exhibit 4	41
22	Asbestos Settlement Agreement	
	between W.R. Grace & Company-Conn.	
23	and the Aetna Casualty & Surety	
	Company dated May 12th, 1996	
24		

1	EXHIBITS	
2	EXHIBIT	ID
3	Exhibit 5	68
4	Exhibit 4 to Exhibit Book Trust	
5	Distribution Procedures	
6	Exhibit 6	82
7	First Amended Joint Plan of	
8	Reorganization	
9	Exhibit 7	96
10	Agreement between W.R. Grace &	
11	Company-Connecticut and the	
12	Travelers Casualty & Surety	
13	Company dated February 20, 1992	
14	Exhibit 8	106
15	Exhibit 19 to Exhibit Book,	
16	Retained Causes of Action	
17	Exhibit 9	113
18	Answer, Cross-claims and	
19	Counterclaims of Defendant W.R.	
20	Grace in re: Maryland Casualty v.	
21	Grace, et al.	
22	Exhibit 10	118
23	Royal Indemnity Company	
24	declaration sheets and	
25	endorsements SA-870, 891, 939,	
26	945-946	
27	Exhibit 11	137
28	Letter dated December 9, 1999 to	
29	Royal & SunAlliance from Marsh USA	
30	Exhibit 12	143
31	Letter dated January 12, 2000 from	
32	Royal and SunAlliance to J.M.	
33	Posner, Inc., two pages	
34	Exhibit 13	196
35	E-mail string between Janet Baer	
36	and Dan Cohn, three pages	

1	EXHIBITS	
	EXHIBIT	ID
2	Exhibit 14	216
3	Monthly asbestos litigation summary Bates stamped 91-1614 through 1639	
5	Exhibit 15 Settlement agreement Bates stamped OB 1 through 33	270
7	Exhibit 16 Settlement Agreement and Release Bates stamped OB 34 through 66	273
9	Exhibit 17 Settlement Agreement and Release Bates stamped OB 67 through 92	277
11	Exhibit 18 Settlement Agreement, Release and Indemnification/Hold Harmless Agreement Bates stamped SEA 1 through 16	279
14	Exhibit 19 Settlement Agreement, Release and Indemnification/Hold Harmless Agreement Bates stamped SEA 17 through 31	280
17	Exhibit 20 Settlement Agreement, Release and Indemnification/Hold Harmless Agreement Bates stamped SEA 32 through 47	283
20	Exhibit 21 Settlement Agreement & Release Bates stamped SEA 48 through 61	285
22	Exhibit 22 LexisNexis printout in re: Maryland Casualty v. Grace, et al.	294
24		

1	EXHIBITS	
	EXHIBIT	ID
2		
	Exhibit 23	317
3	Exhibit 6 to Exhibit Book,	
	Asbestos Insurance Transfer	
4	Agreement	
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

1 DEPOSITION SUPPORT INDEX

2

Direction to Witness Not To Answer

3	Page	Line	Page	Line
	209	1	239	6

4

Request For Production of Documents

5	Page	Line	Page	Line
	142	11	149	24
6	169	18		

7 Stipulations

	Page	Line	Page	Line
--	------	------	------	------

8 (None)

9 Questions Marked

	Page	Line	Page	Line
--	------	------	------	------

10 (None)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 (Notice of Deposition of
2 Jeffery Posner received and marked
3 for identification as Posner
4 Exhibit 1.)

5 (Curriculum vitae of
6 Jeffery M. Posner received and
7 marked for identification as Posner
8 Exhibit 2.)

9 (Affidavit Under 11 USC
10 327(e) received and marked for
11 identification as Posner Exhibit
12 3.)

13

14 J E F F R E Y P O S N E R,

15 having been sworn by the Notary
16 Public of the States of New York
17 and New Jersey, was examined and
18 testified as follows:

19

20 EXAMINATION BY

21 MS. FORSHAW:

22 Q. Good morning. Mr. Posner.

23 A. Good morning.

24 Q. Good to see you again. I

1 recollection of the conversation. That's,
2 you know, more than nine years ago.

3 Q. For example --

4 A. I'm not saying it didn't
5 happen. I just don't have a
6 recollection.

7 Q. For example, the first line
8 on this letter references a December 10
9 telephone conversation between yourself
10 and John Pizetoski. Do you see that?

11 A. Yes, I do.

12 Q. Do you remember talking to
13 Mr. Pizetoski about the applicability of
14 Royal's coverage for claims arising in
15 Libby in 1999?

16 A. I don't have a specific
17 recollection. I mean, I know John
18 Pizetoski. I just simply don't have a
19 recollection of this specific
20 conversation. Again, it was more than
21 nine years ago.

22 Q. Do you recall making a
23 demand on Royal in the 1999-2000 time
24 frame for coverage with specific reference

1 to asbestos injury claims arising in
2 Libby, Montana?

3 A. Let me say -- let me answer
4 it this way: I would not have made a
5 demand -- well, to the extent the letter
6 went to them, it would have gone to them
7 in error or just as a matter of routine.
8 But the reality is, is that since I had
9 negotiated the 1995 agreement, I knew that
10 Grace had released all asbestos-related
11 claims which would encompass the Libby
12 claims so I would not have made a demand
13 upon them to the extent we sent them a
14 letter providing information because it
15 simply went to them as a matter of
16 routine. Had I gotten a phone call, I
17 probably would have told Royal that, yeah,
18 I mean, I agree with them that the claims
19 were released.

20 Q. Do you agree with me that
21 based on Exhibit 11 it certainly appears
22 that you made a demand for coverage on
23 somebody with reference to the Libby
24 claims in 1999?

1 MS. ESAYIAN: Objection to
2 form.

3 MR. SCHIAVONI: Objection,
4 calls for speculation and I think
5 this is also a document speaks for
6 itself objection.

7 A. Well, I mean, I think if
8 you look at the December 9 letter, it's
9 not a demand. It's simply a notice of
10 claim. So I don't -- I mean, I don't see
11 it as a demand. It's a notice of
12 potential loss. But, again, I mean, as I
13 indicated before, because I negotiated the
14 agreement, you know, I knew that we had
15 released those claims.

16 Q. Can you think of any reason
17 that you would provide a notice of
18 potential loss to an insurance company
19 that you do not believe has coverage
20 applicable to the loss?

21 MR. SCHIAVONI: Objection,
22 asked and answered.

23 A. What had happened at Grace
24 was that we were getting in so many claims

1 and we were involved with so many
2 insurance carriers and I always had this
3 concern about missing an insurance carrier
4 that owed us an obligation so I had always
5 instructed the broker that whenever we got
6 claims in to simply send them to everybody
7 on the list, and that list included
8 companies that Grace had settled with and
9 then I indicated to them I would sort it
10 out later.

11 I didn't, you know, want an
12 insurance company to come back to me and
13 say that we failed to notify them of a
14 claim through some inadvertent error so I
15 went through the extra precaution of
16 notifying all carriers, even those with
17 whom we had settled, just to preclude a
18 claim by some carrier that we may have
19 inadvertently missed.

20 Q. Did you ever take the
21 position at any time after the 1995
22 settlement agreement on behalf of Grace
23 that Royal had an obligation to cover
24 claims for personal injury from asbestos

1 **exposure arising out of Libby, Montana?**

2 A. No, I don't recall I ever
3 did, nor would I, because, again, I
4 negotiated the agreement. I understood
5 how the release worked. Despite the fact
6 that there may be letters going to Royal
7 at various points in time, I had always
8 understood that the claims were released
9 by the agreement and I never made a demand
10 upon Royal nor did I ever have any
11 discussions with them claiming
12 otherwise.

13 Q. Did you ever take the
14 position on behalf of Grace at any time
15 after the 1995 settlement agreement was
16 entered into that the settlement agreement
17 did not release claims for premises
18 coverage as opposed to products
19 coverage?

20 A. I -- my recollection -- I
21 don't have the agreement in front of me.
22 My recollection of the agreement is that
23 we gave them two releases. We gave them a
24 complete products release and we gave them

10 A. I'm sorry. Conversations
11 with Royal?

14 A. I don't have any
15 recollection of corresponding with Royal.
16 Again, Royal may have gotten, you know,
17 letters from Grace as a matter of routine
18 when claims came in but I certainly never
19 had any substantive discussions with them
20 claiming that they owed coverage for
21 asbestos-related claims because, again, I
22 knew that we had released them as part of
23 the 1995 agreement.

24 MR. KOVACICH: For the

1 MS. ESAYIAN: Is anyone
2 else in the room going to ask
3 questions after Tanc because, if
4 not, then I think Matt might want
5 to get a heads up with Dan Speights
6 that we're getting close.

7 (Off the record.)

8 EXAMINATION BY

9 MR. SCHIAVONI:

10 Q. Mr. Posner, were you
11 personally involved in the negotiations of
12 the 1995 Grace-Royal settlement
13 agreement?

14 A. Yes.

15 Q. Is it fair to say that you
16 participated directly in the negotiation
17 of the 1995 Grace-Royal settlement
18 agreement?

19 A. Yes.

20 Q. Was the 1995 Grace-Royal
21 settlement agreement the product of
22 negotiations between Grace and Royal?

23 A. Yes.

24 Q. Did the negotiations

1 between Grace and Royal over the 1995
2 settlement agreement span over a period of
3 time?

4 A. Yes.

5 Q. Can you tell us
6 approximately how long those negotiations
7 took place over?

8 A. I can't. I mean, we had
9 preliminary discussions which broke down
10 and subsequent discussions but, I mean, it
11 could have been more than a year. I mean,
12 I don't really remember, sitting here
13 today.

14 Q. It's fair to say that the
15 negotiation of the Grace-Royal settlement
16 agreement wasn't something that took place
17 over a day or two days, right?

18 A. It was certainly longer
19 than that period of time, yes.

20 Q. Is it fair to say that the
21 negotiations of the Grace-Royal settlement
22 agreement took place over a period of at
23 least months?

24 A. To my recollection, that's

1 a fair statement but I don't recall
2 specifically.

3 Q. Were the negotiations of
4 the 1995 Grace-Royal settlement agreement
5 conducted at arm's length between Grace
6 and Royal?

7 MR. COHN: Object to
8 form.

9 A. And by arm's length you
10 mean?

11 Q. That it was an arm's length
12 negotiation, that there were -- you had no
13 control over each other, you acted on
14 behalf of your own interests and not on
15 behalf of anyone else's interests.

16 A. I think that's a fair
17 statement, yes.

18 Q. Was the 1995 Grace-Royal
19 settlement agreement negotiated by Grace
20 in good faith?

21 A. Yes.

22 Q. Do you have any reason to
23 believe that the 1995 Grace-Royal
24 settlement agreement was not negotiated in

1 good faith by the Royal folks?

2 A. No.

3 Q. Did you, Mr. Posner, do
4 your best as part of the negotiation of
5 the 1995 Grace-Royal settlement agreement
6 to obtain as large a settlement payment as
7 possible from Royal?

8 A. Yes.

9 Q. Did you, Mr. Posner, do
10 your best as part of the 1995 Grace-Royal
11 settlement negotiations to try to obtain
12 the best possible terms for Grace from
13 Royal?

14 A. Yes.

15 Q. Did Grace do due diligence
16 on the coverage that was allegedly issued
17 by Royal as part of the negotiations of
18 the 1995 Grace-Royal settlement
19 agreement?

20 A. Yes.

21 Q. And were you personally
22 involved in those due diligence efforts,
23 Mr. Posner?

24 A. Yes.

1 Q. And did the due diligence
2 efforts that were done by Grace include a
3 review of the policies and the terms of
4 the policies allegedly issued by Royal?

5 A. Yes.

6 Q. Counsel for the Libby
7 claimants asked you some questions about
8 what he referred to as premises/operations
9 coverage. Do you remember generally that
10 line of questioning?

11 A. Yes, I do.

12 Q. Were you aware at the time
13 that you negotiated the 1995 Grace-Royal
14 settlement agreement that there was
15 possible coverage for certain types of
16 asbestos bodily injury claims under the
17 premises/operations provisions of the
18 Royal policies?

19 A. Yes.

20 Q. The counsel for the Libby
21 claimants also asked you some questions
22 where I guess he suggested that there
23 might be no aggregate limits for the
24 premises/operations portions of the

1 coverage under the Royal policies. Do you
2 remember generally those questions?

3 A. Yes, I do.

4 Q. Were you aware at the time
5 that you negotiated the 1995 Grace-Royal
6 settlement agreement that there was a
7 possibility that there might be no
8 aggregate limits for certain asbestos
9 bodily injury claims under the
10 premises/operations provisions of the
11 Royal policies?

12 A. I was aware of that, yes.

13 Q. Was the settlement
14 payment -- the 1995 Royal -- Grace-Royal
15 settlement agreement, it required that a
16 settlement payment be made to Grace. Is
17 that right?

18 A. Yes.

19 Q. Was the settlement payment
20 that was required under the 1995
21 Grace-Royal settlement agreement actually
22 paid to Grace?

23 A. Yes.

24 Q. And was the settlement

1 amount that was due under the 1995
2 Grace-Royal settlement agreement paid in
3 full to Grace?

4 A. Yes.

5 MR. SCHIAVONI: Thank you
6 very much, sir.

7 THE WITNESS: Thank you.

8 EXAMINATION BY

9 MR. POHLMAN:

10 Q. Mr. Posner, my name is Bill
11 Pohlman. I represent The Scotts Company.
12 You were involved in negotiating
13 settlement agreements on behalf of Grace
14 with a variety of different insurers with
15 respect to asbestos claims, correct?

16 A. Yes.

17 Q. And you were personally
18 involved in the first settlement
19 negotiation that Grace reached with an
20 insurer with respect to asbestos claims?

21 A. Yes.

22 Q. And the most recent
23 settlement in 2006?

24 A. Yes.

1 Companies is still in place.

2 MR. POHLMAN: To the extent
3 we have not been provided with
4 copies of the settlement agreements
5 in advance of this deposition, I
6 would reserve any rights to examine
7 the witness further about those
8 agreements but for the time being
9 I'm finished. Thank you.

10 THE WITNESS: Thank you.

11 MR. SCHIAVONI: I have one
12 really quick follow-up.

13 MS. ESAYIAN: Okay.

14 EXAMINATION BY

15 MR. SCHIAVONI:

16 Q. The last question I asked
17 you about, in fact there were two Royal
18 settlement agreements, right?

19 A. Yes.

20 Q. The prior one, I asked you
21 about the 1995 settlement agreement.
22 There was one done in May of 1994 between
23 Royal and Grace, right?

24 A. Correct.

1 Q. And it's fair to say you
2 were personally involved with the
3 negotiations of the May 1994 Grace-Royal
4 settlement agreement. Am I right?

5 A. Yes.

6 Q. And is it fair to say that
7 the 1994 Grace-Royal settlement agreement
8 was the product of negotiations between
9 Grace and Royal?

10 MR. KOVACICH: I'm going to
11 object to the leading questions at
12 this point. It's obvious the
13 witness is not adverse on this
14 subject of your examination.

15 MR. SCHIAVONI: Haste makes
16 waste so I'll withdraw the
17 question.

18 Q. Was the May 1994
19 Grace-Royal settlement agreement the
20 product of arm's length good faith
21 negotiations between Grace and Royal?

22 MR. KOVACICH: Objection as
23 still leading.

24 A. Yes. I mean, not only

1 that, we were involved in litigation with
2 Royal and, as I recall, the case got
3 settled while the case was being tried.

4 **Q. And did the negotiations of**
5 **the May 1994 Grace-Royal settlement**
6 **agreement take place over a span of**
7 **time?**

8 MR. KOVACICH: Objection,
9 leading.

10 A. Yes.

11 **Q. And can you give us a sense**
12 **of how long that took to negotiate?**

13 A. I mean, I really can't.
14 Again, it was a lost policies issue. You
15 know, Royal was disputing some of the
16 policies. Litigation, as I recall, began
17 in New York to determine, you know, what
18 the policies were. During the course of
19 that litigation, you know, we settled. We
20 settled it.

21 **Q. Okay. But were the**
22 **negotiations of the May 1994 Grace-Royal**
23 **settlement agreement the product of days**
24 **of negotiations --**

1 MR. KOVACICH: Objection,
2 leading.

3 Q. -- at a minimum?

4 A. I mean, I don't know.
5 These issues, you know, were being
6 discussed with Royal over a period of
7 time. I don't think it would be fair to
8 say that we were negotiating for days over
9 this. Again, trial had started --

10 Q. Right.

11 A. -- on this issue and, you
12 know, during the trial we had reached a --
13 we reached a settlement.

14 Q. Okay. Did you, Mr. Posner,
15 do your best as part of the negotiation of
16 the May 1994 Grace-Royal settlement
17 agreement to obtain the best possible
18 terms for Grace?

19 A. Yes.

20 MR. SCHIAVONI: Thank you.

21 THE WITNESS: Thank you.

22 MS. ESAYIAN: Okay. So is
23 Dan Speights on the line now?

24 MS. DeCRISTOFARO: Lisa,